

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

MAX MOUSSAZADEH, ET AL.	§	
VS.	§	CIVIL ACTION NO. 9:05cv197
		CONSOLIDATED WITH
TDCJ-CID, ET AL.	§	CIVIL ACTION NO. 9:04cv5

ORDER DENYING SUMMARY JUDGMENT


The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the motions for summary judgment (docket entry numbers 57 and 58) filed in Civil Action No. 9:04cv5 should be denied without prejudice due to the consolidation of the cases. Plaintiff David has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Plaintiff David to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and David's objections lack merit. It is noted that David's objections focus on how his claims differ from those of Moussazadeh, and he fears that his personal claims will not be adequately reviewed. The focus of the Report, however, was the need to have consistent scheduling deadlines due to the consolidation of the cases. David did not address this issue. A recommendation was made to dismiss the motions for summary judgment without prejudice and to allow the parties to raise their arguments again, if

necessary. David may ask the Court for the opportunity to file a *pro se* supplemental brief if the attorneys who originally filed the complaint in behalf of Moussazadeh do not adequately represent his interests. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the motions for summary judgment (docket entry numbers 57 and 58) filed in Civil Action No. 9:04cv5 are **DENIED** without prejudice.

SIGNED this the 6 day of **February, 2006**.


Thad Heartfield
United States District Judge